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Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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| In the Matter of |) | MM Docket No. 98-198 |
| |) | |
| Amendment of Section 73.202(b) |) | RM-9690 |
| Table of Allotments |) | |
| FM Broadcast Stations |) | |
| (Cross Plains, Texas) |) | |

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

REPLY TO OPPOSITION

On August 13, 1999, Sonoma Media Corporation ("Sonoma") filed an Erratum to a "Motion to Withdraw and Dismiss Counterproposal" which it had filed on August 3, 1999. On August 26, 1999, an Opposition was filed by Jayson and Janice Fritz ("Fritzes"). This Reply is in response to that Opposition. 1/.

One element of the Sonoma counterproposal was the substitution of equivalent channel 282C2 for existing channel allocation 249C2 in Mason, Texas. The channel in Mason is presently vacant with three mutually exclusive applications pending, of which the Fritzes is one. The Fritzes, alone among the Mason applicants, appear to have a dislike for the equivalent channel, just in case their application is ultimately successful, so much so that they have filed their Opposition to make just that point.

1/ Although the Fritzes Opposition was directed only at Sonoma, this Reply is being filed on behalf of Sonoma and Rawhide Radio, LLC, which, as previously noted, is the successor in interest to Sonoma in this proceeding.

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In filing the Opposition and indicating their objection to the equivalent channel, the Fritzes also complain that they would have filed their complaint within the August 5 comment period set forth in Public Notice Report 2346 (released July 21, 1999, and Corrected on July 29, 1999) but for the fact that they believed, based on their own information, that Sonoma would withdraw from the proceeding. Based upon their own "belief" the Fritzes decided not to file any Comment making their "concern" with the equivalent channel a matter of record.

Sonoma did in fact subsequently file a Motion to Withdraw on August 3, 1999, and served all interested parties, including the Fritzes. The Fritzes claim that because of this Motion, they did not respond to the Public Notice for Comments on the Sonoma Rulemaking in this Docket. To the extent that they did not do so, it was their choice not to do so. The Sonoma Counterproposal had been on file since December of 1998, and the Fritzes were served with that December, 1998, filing. Had they anything to say of any substance beyond the fact that, for whatever reason good and sufficient to them, they did not like the equivalent channel proposed for the Mason allocation, they were free to state it at any time and during the provided comment period.

According to the Fritzes, they chose to say nothing based upon what they heard as to Sonoma's future intentions. The fact that they chose to say nothing based upon their own belief that Sonoma was going to withdraw was their choice. Similarly, the fact that Sonoma did in fact subsequently file a Motion to

Withdraw provides them with no excuse. It was in fact a Motion, i.e. a request to be considered and granted or not granted as the Commission might choose. Withdrawal is not a matter of "right" but one for which permission must be obtained. The filing of the Motion did not in itself constitute "withdrawal" but only a request for the Commission to consider to allow such a withdrawal. To the extent that the Fritzes really decided to forgo filing whatever Comment they had, based upon the filing of the request, they were mistaken. As of the time the Motion was filed and through the Comment period, the Sonoma counterproposal remained in effect, remains so now, and would continue to remain so until such time as the Commission acted upon the Motion, one way or the other.

The fact, of course, is that Sonoma recognized the error in its original Motion and filed its Erratum on August 13, 1999, to withdraw the original Motion, and modify its request to withdraw only a portion of its original Counterproposal. Since the original Motion was still pending, and had not been acted upon, it was entirely appropriate for Sonoma to file the Erratum correcting its own Motion. The Fritzes claim that the filing of the Erratum was "untimely" since it was not within the date for filing Comments in response to the Notice of Rulemakings. The Fritzes again exhibit some confusion as to the difference between a Motion and Comments filed in response to the Notice. Any party at any time is free to file a Motion relative to its own case and indeed must do so in some cases (e.g. to update information as required by Section 1.65 of the Commission's rules). Similarly in

a case where a proponent files a Motion to Withdraw all or part of its proposal from the proceeding. That is not a "Comment". The Motion then stands on its own as do subsequent pleadings relating to that Motion such as the Erratum filed in this case.

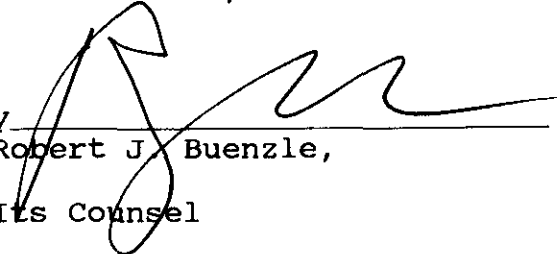
The bottom line is that the Fritzes have made their own choices here and have no grounds for complaint. Moreover, to the extent that their sole stated concern is as to its unhappiness with the equivalent channel proposed for the vacant allocation at Mason, they have now made their statement, for what it's worth, and it is no more or less relevant here than if it had been made in the Comment period or any other time. No matter how it is viewed, there is simply no prejudice to Fritz. As one of three applicants for the channel at Mason, Fritz's interest is speculative and remote at best, assuming it remains an applicant at Mason and assuming it ultimately prevailed there over the competing applicants (who have expressed no unhappiness with the equivalent channel). The Commission's determination of the various proposals made in this proceeding by Sonoma and others will be made upon many factors, not the least of which will be the public interest in improved FM service, but not upon the Fritz's unique personal "dislike" of the equivalent channel proposed at Mason, whether expressed or not expressed.

Wherefore, the Comments in Opposition filed by the Fritzes are without merit and should be denied and the Sonoma Motion to Dismiss Part of its Counterproposal granted.

Respectfully Submitted,

SONOMA MEDIA CORPORATION

RAWHIDE RADIO, L.L.C.

by 
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September 3, 1999

CERTIFICATE OF SERVICE

I, Robert J. Buenzle, do hereby certify that copies of the foregoing REPLY TO OPPOSITION have been served by United States mail, postage prepaid this 3rd day of September, 1999, upon the following:

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